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ABSTRACT

Texas public school finance is undergoing reform in response to a state Supreme Court decision in Edgewood I.S.D. v. Kirby, that declared the school finance system in violation of the "efficient clause" of the state constitution. State aid has declined since 1984 due to state revenue constraints, reform mandates largely funded from local taxes, and state revenue system dependency on general sales taxes. Major proposals offered in a special legislative session generally involve: (1) improvement of fiscal neutrality through improved yield-for-effort plans; (2) equity targets involving at least 95 percent of the students in the equalized program; and (3) phase-in plans of 3 to 5 years. (59 references) (LMI)

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SCHOOL FINANCE REFORM IN TEXAS, 1990

Billy D. Walker

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SCHOOL FINANCE REFORM IN TEXAS, 1990

Billy D. Walker

The Texas system of public school finance has been the object of persistent equity concern for almost two decades. The foundation program implemented through the Gilmer-Aikin laws (1949) was challenged on federal constitutional grounds in the early 1970s in *Rodriguez v. San Antonio Independent School District*,[1] a case that piqued the collective conscience of the body politic in Texas relative to school finance equity. Subsequent attempts at school finance reform by the Texas Legislature in 1975 and 1984 have been described elsewhere,[2] as have analyses of the equity of the system.[3]

Edgewood I.S.D. v. Kirby

The most recent stimulus for analysis of the Texas system of public school finance is *Edgewood I.S.D. v. Kirby*, a state court case in which the Texas Supreme Court has set aside the current system of finance as unconstitutional based on the "efficient system" clause of Article VII, Section 1 of the Texas Constitution. Texas now joins several other states in which the school finance systems have been struck down by the highest state courts.[4] Since the implications of the decision are far-reaching, a review of the trial court and Supreme Court findings and opinions is cogent.

The suit, originally filed in 1984 as *Edgewood I.S.D. v. Bynum*, was a significant influence upon the legislative process that produced House Bill 72 (1984) in a special session of the Texas Legislature.[5] In 1985 the case was restyled as *Edgewood I.S.D. v. Kirby* and was amended to challenge the post-reform school finance system. The case was tried early in 1987, with testimony centering on 1985-86 as a base year, and the trial court judgment was entered on June 1, 1987.

Trial Court Judgment

The state district court found the system of school finance unconstitutional based on both "equal protection" (Article I, Section 3, et seq.) and "efficient system" (Article VII, Section 1) analysis.[6] The principal elements of the final judgment may be summarized as:

1. The Texas school finance system (Chapter 16 of the Texas Education Code), implemented in conjunction with local school district boundaries that contain unequal property wealth, was found to be unconstitutional. [Emphasis added.]

2. The Texas school finance system fails to ensure that each district has the same ability as every other district to obtain (by state funds or local taxes or both) funds for education, including facilities and equipment. [Emphasis added.]

3. Legitimate cost differences of districts and students have merit and ought to be, but are not required to be, considered in any funding formula.

4. The system denies children living in poor districts the equal protection of the laws, equality under the law, and the privileges and immunities guaranteed by the Texas Constitution, Article I, Sections 3, 3A, 19, and 29.

5. The system does not discriminate against Mexican-Americans as a class.

6. The ability of districts to spend differently is not limited, as long as each district has the same ability to raise and to spend equal amounts per student, with legitimate cost differences taken into account. [Emphasis added.]

7. The Texas school finance system is unconstitutional because it is not an "efficient system" as required by Article VII, Section 1 of the Texas Constitution, when implemented in conjunction with school district boundaries containing unequal taxable property wealth. [Emphasis added.]

8. The plaintiffs, plaintiff-intervenors, and school children in property-poor districts are entitled to all the protections of the constitution.'

The court then enjoined the state from enforcing the Foundation School Program Act, leaving all other school laws unaffected. The injunction against distribution of state funds under the unconstitutional system was stayed until September 1, 1989. The court added that if the Texas Legislature enacted a new law meeting the court's standard of equity prior to September 1, 1989, the stay would be extended to September 1, 1990. Immediate full implementation of a new system by September 1, 1990, was not required.

In a miscellaneous portion of the judgment, the court ordered that the ruling had no effect on, and sought to protect, bonds and other debt obligations of school districts, tax levies for debt service, bond elections, maintenance tax levies, and budgeting processes of school districts up to September 1, 1990.

In the months after the district court judgment, several study groups addressed the *Edgewood I.S.D. v. Kirby* decision in terms of potential state responses. In general, the groups tended to ignore strict fiscal neutrality alternatives (e.g., district power equalization with recapture) and strict compliance options (e.g., school district reorganization) to focus on different conceptual models or formula elements that increased fiscal neutrality, maintained or improved definitions of adequacy, reduced revenue disparities, and brought facilities costs under the equalized program.

Court of Appeals Reversal

Oral arguments in the appeal of the *Edgewood I.S.D. v. Kirby* decision were heard by a three-judge panel of the Third Court of Appeals, Austin District, on April 6, 1988, ten months after the initial ruling. On April 20, 1988, the appeals court directed the trial court to file additional conclusions of law regarding the roles of other sections of the Texas Constitution in determining the constitutionality of the Texas funding scheme.[8] This the trial court did on June 6, 1988.[9]

On December 14, 1988, the Third Court of Appeals reversed, by a 2-1 vote, the district court decision in the suit.[10] An elaboration of the majority and minority opinions is available and will not be repeated here.[11]

In conclusion, the majority opinion states: "The opinion and judgment of this Court should not be viewed as an affirmation that the present school financing system is desirable or that it should continue without change; rather, our conclusion is solely that the system is not in violation of the Constitution of Texas."[12] This statement is remindful of the majority opinion's admonition in the *Rodriguez* case: "We hardly need add that this Court's action today is not to be viewed as placing its judicial imprimatur on the status quo."[13]

Texas Supreme Court Opinion

In striking down the Texas system of public school finance, the Texas Supreme Court relied upon the "efficient system" clause found in Article VII, Section 1 of the Texas Constitution, and the opinion draws an "implicit link between efficiency and equality."[14] While the trial court judgment rendered in 1987 was upheld, the justices provided a cogent modification by finding that a constitutional system need only make school district revenues "substantially equal" at similar levels of district tax effort.[15] While a fiscal neutrality dictum is still imposed, the Texas Legislature may formulate remedies less stringent than would have been required by the trial court's "same ability" standard so long as there is a "direct and close correlation between a district's tax effort and the educational resources available to it."[16]

The "equal yield for equal effort" principle of taxpayer equity is obtained when districts with identical tax rates (equalized) receive equal revenues per pupil (weighted or unweighted) from state and local funds combined. This concept of school finance equity is termed ex ante fiscal neutrality and is the type of equity most clearly addressed by the Court. To achieve the ex ante fiscal neutrality principle, state school finance models must distribute state funds with reference to local tax effort as well as in inverse proportion to district fiscal capacity; for example, through power equalization or guaranteed yield programs.

Other than this "equal yield/equal effort" standard, does the Supreme Court outline in its decision an envisioned school finance plan? There are three answers: Yes. No. Maybe. The opinion is characterized by a number of apparent contradictions and ambiguities. For example, the Court states explicitly in one section that no specific standards are set out, no specific legislation is ordered, and no state tax increase is mandated. Moreover, the justices hold that the legislature has primary responsibility to decide how to achieve an "efficient system."[17] Yet, a close reading of other parts of the opinion unveils a number of undeniable statements about an envisioned system joined by a host of inferences not so clearly enunciated.

The *Edgewood* opinion makes a strong statement about the adequacy of state support. Adequacy, as a goal in public school finance, is defined as sufficiency of resource inputs in amounts proper to ensure desired outcomes. The Court found that state aid in Texas is inadequate in that the Foundation School Program does not cover even the cost of meeting mandated minimum requirements.[18] Additionally, there is no state support for debt service and school facilities costs, both the basic allotment and the transportation allotment "understate actual costs," and the career ladder supplement is "underfunded." This lack of adequate state support, according to the Court, requires districts to rely too heavily on local funds, which are distributed disparately, in providing programs for pupils.[19]

The Court notes that low-wealth districts must use a higher proportion of their local funds to pay debt service while more affluent districts use their funds for a "wide array of enrichment programs."[20] The Court concludes that the lower expenditures in poor districts are not due to lack of effort, at least in the aggregate.[21] This concern with expenditure level is potentially revealing of an "expenditure equality" standard along with the "fiscal neutrality" standard imposed by the "equal yield" principle discussed above. The Court states that local supplementation from purely local funds is not precluded.[22] Therefore, it must be assumed that the envisioned state equalized program will be sufficient at a given level of local tax effort. Local add-on expenditures would be a matter of local choice, not unequalized necessity, and would come entirely from local funds beyond the state-equalized "adequate program."

In its most piercing comment relative to the adequacy of state aid, the Court states that the legislature must establish funding priorities according to constitutional mandates, such as an "efficient system" of public schools. Public education funding at the state level cannot be determined on an "if funds are left over" basis.[23] While the enlistment of local school taxes in the public education funding scheme is permissible,[24] the state is not relieved of its duty to provide adequate appropriations for an "efficient" (i.e., equitable) system.

The *Edgewood* decision also speaks to the principle of horizontal pupil equity, which is defined in school finance as the "equal treatment of equals." Perfect horizontal equity is achieved when equal amounts of revenue are available per pupil (unweighted) from state and local sources combined. The Court addresses this equity issue by stating that "dramatic" differences in quality of programs exist between rich and poor districts.[25] Among the deprivations suffered by students in poor districts listed by the Court are: (1) better curricula, (2) up-to-date technological equipment, (3) better libraries and library personnel, (4) teacher aides, (5) counseling services, (6) lower pupil-teacher ratios, (7) better facilities, (8) parental involvement programs, (9) dropout prevention programs, and (10) more experienced teachers and administrators.[26]

Vertical pupil equity is a school finance concept based on the appropriate "unequal treatment of unequals." Perfect vertical pupil equity would be achieved when equal amounts of revenue were available per "weighted pupil" from state and local sources combined. Therefore, vertical pupil equity requires that the state measure the dimensions of need of special classifications of pupils, such as those requiring special education, bilingual education, compensatory education, and so on. The Supreme Court addresses this equity issue by stating that costs associated with providing equal opportunity to "atypical students or disadvantaged students" may be recognized in the school finance system.[27]

The important pupil equity concept of equal opportunity is likewise addressed by the *Edgewood* decision. In school finance terms, the equal opportunity principle holds that students living in low-wealth districts should not suffer discrimination in terms of resources available. Therefore, there should be no systematic relationship between district wealth and district revenue per pupil, weighted or unweighted. Ideally, there should be little difference in the average revenue per pupil across the state. The Court touches upon the equal opportunity issue by stating that the amount of money available for a child's education has a "real and meaningful impact on educational opportunity" and that the constitutionally-imposed state responsibility for an efficient system "is the same for all citizens regardless of where they live" and without regard to local economic conditions.[28] Children in poor and rich districts must be afforded "substantially equal" opportunity to have access to education funds.[29]

Moving from pupil equity to taxpayer equity considerations, we find that the *Edgewood* opinion addresses several issues. Horizontal tax equity exists, in school finance terms, when there is equal tax incidence for taxpayers with equal ability to pay. The Court draws an example of how individual tax burdens on an $80,000 home vary greatly across districts.[30] The justices also state that some school districts are "tax havens" and that the system permits "budget balance" districts that at minimal tax rates can generate significant revenues. The taxes not paid by individuals in such districts could, according to the Court, "generate additional revenue of more than $200,000,000 annually for public education."[31] The inference is that such local taxes should be "recaptured" or that such districts should be restructured to improve horizontal tax incidence. The Court reemphasizes the point by stating that "efficiency...does not allow concentrations of resources in property-rich school districts that are taxing low when property-poor districts that are taxing high cannot generate sufficient revenues to meet even minimum standards."[32] However, local supplementation is not precluded,[33] meaning that absolute fiscal effort uniformity is not required.

Vertical tax equity, as a school finance concept, exists when tax incidence varies according to ability to pay; that is, when taxes are progressive or at least proportional. Little is said on this point, but the justices support a fiscally neutral system (without reference to income), and it is stated that area cost differences of districts may be recognized.[34] Regional cost adjustments are significant in school finance theory in addressing the issue of vertical tax incidence for both individuals and districts.

The school finance concept of efficiency is addressed by the Texas Supreme Court as the central constitutional question at issue. As mentioned, the opinion draws an "implicit link between efficiency and equality,"[35] meaning that an inequitable system is inherently "inefficient." The Court goes to lengths to explain this connection.[36] With respect to an envisioned school finance system, the main points are: (1) equitable availability of monies must result; (2) local taxation is not precluded, but varying district wealth must be compensated for by the state; and (3) the concentration of resources in property-rich districts that tax low is "inefficient."[37] Efficiency in a classical sense, rather than a constitutional sense, is also mentioned; that is, the Court says that an "efficient system" produces results with little waste and is "effective or productive of results."[38]

In its conclusions, the Supreme Court defines the unconstitutional system as Chapter 16 of the Texas Education Code "as implemented in conjunction with local school districts containing unequal taxable property wealth."[39] The justices also state that "more money allocated under the present system would reduce some of the existing disparities between districts but would at best only postpone the reform that is necessary to make the system efficient."[40] They add: "A band-aid will not suffice; the system itself must be changed."[41] This rather strong inference that the school district structure needs to be reorganized impinges on the value of local choice, which is likewise supported by the Court: "An efficient system does not preclude the ability of

communities to exercise local control over the education of their children....An efficient system will actually allow for more local control, not less."[42]

Apparent Remedies

The Supreme Court grants the Texas Legislature until May 1, 1990, to devise a new "system."[43] What should the new "system" look like in the future? Contrary to the thinking of some observers, the element of the system requiring perhaps the least amount of reform is the external structure of the state aid model, which is a two-tiered foundation program providing effort-based equal yield per weighted pupil at each level. One explanation of the appropriateness of the model rests on the fact that all state aid equalization models are mathematically equivalent.[44] Another is that the model is already fiscally neutral at the level supported by the state. Still another is that the model combines positive features from both foundation program and power equalization theory, as discussed below.

The internal structure of the Texas state aid model likely will need substantive changes, particularly with reference to "adequacy," and also because of the necessity to bring debt service and facilities costs under the equalized program. In addition to these major concerns, all formula elements used to measure adequacy (e.g., basic allotment, career ladder allotment, small and sparse district adjustments, cost of education index, transportation formula, etc.) will need to be reviewed. The potential also exists for new formula elements that recognize needs for technology development, planning and research efforts, and improved productivity.

Adequacy of state aid is called into question by the Texas Supreme Court.[45] Indeed, research reveals that a basic allotment of $1,890 would be required in 1989-90 to support a minimum educational program mandated by state law, State Board of Education rules, and accreditation standards.[46] The actual basic allotment is $1,477 in 1989-90. The need for additional state aid in the system is axiomatic. The equity of the system cannot be improved significantly by simply redistributing state aid or even by reorganizing school districts on a more logical basis. A discussion of declining state participation in the funding paradigm is given below.

The *Edgewood* decision also hints at district reorganization for the improvement of the efficiency of the school finance system. The structure of administrative units, the makeup of local tax bases, and other forms of reorganization have been long-standing concerns of public policy makers.[47] However, because of the traditional sanctity of local control in Texas schools, overt reorganization efforts have been resisted. This issue of local choice is not likely to fade away because of the Court's inferences. Instead, the state will need to seek alternatives that balance the normative values of equity and local choice.

How will school finance reforms in Texas, once decided upon, be afforded? The specter of state tax increases during a period when the Texas economy and the state revenue base are static becomes a foreboding one. It is also certain that local property taxes, which currently provide the main support for the public education system, cannot be abandoned as a source of revenue. However, reliance upon local taxes, besides damaging the equality of the school finance system, may have reached a practical limit from both tax equity and political perspectives. Existing state taxes appear to have suffered a similar fate. The state will be compelled to employ expanded existing revenue sources, or even new revenue sources, including personal and corporate income taxes toward which Texans have long held an antipathy. Further discussion of the state revenue system in Texas is given below.

TRENDS IN STATE SUPPORT FOR PUBLIC EDUCATION IN TEXAS

The key concept in framing a remedy for *Edgewood I.S.D. v. Kirby* is the level of state support for public education in the state. At its inception in 1949, the Texas foundation program was comprised of 80 percent state funds and a 20 percent local share allocated among districts on an equalized basis. Even after local "enrichment" revenues were taken into account, the state provided about 60 percent of the state/local revenue mix in 1949-50. During the period 1950-1975, state support varied from 50 percent to 60 percent of total state/local funding of public education current operating costs. In 1975, a reform year, the state increased its aid by 31 percent for the 1975-1977 biennium and followed with generous state aid increases in 1977, 1979, and 1981. As late as the 1982-83 year, state funds comprised 56 percent of the state/local revenue mix for current operating costs.

As seen in Table 1 and Table 2 below, the proportion of state funding for current operating costs has been in decline in Texas. This decline is attributable to: (1) a downturn in the Texas economy, especially in the petroleum industry, creating a state revenue crisis; and (2) the costly education reforms passed in 1984.

In its regular session in 1983 the Texas Legislature was confronted by revenue constraints for the first time in over a decade. The unfamiliar dilemma faced by lawmakers caused them to eschew a tax increase and to carry forward current law funding. They also appointed a Select Committee on Public Education to study the funding problem in anticipation of a special legislative session on school finance. The committee widened its scope and made an ambitious set of education reform recommendations in April 1984.

In the special session in the summer of 1984, House Bill 72 was passed, to include many costly new reforms: (1) a vastly revised and increased state minimum

Table 1

Percentage Shares of Current Operating Costs
in Texas, 1983-84 through 1988-89

	1983-84	1987-88	1988-89
State Share	47.7%	44.6%	43.4%
Local Share	45.5	47.9	48.6
Federal Share	6.8	7.5	8.0
Mean	$2,670	$3,462	$3,842

Source: National Education Association, *Estimates of School Statistics, 1983-84, 1987-88* and *1988-89*.

Table 2

State Percentage Share of State/Local Operating Costs
in Texas, 1983-84 through 1988-89

	1983-84	1987-88	1988-89
State Percentage	51.2%	48.2%	47.2%
Local Percentage	48.8	51.8	52.8
State Mean	$1,274	$1,544	$1,667
Local Mean	1,215	1,658	1,867

Source: National Education Association, *Estimates of School Statistics, 1983-84, 1987-88* and *1988-89*.

salary schedule for teachers, (2) a career ladder program of salary supplements for classroom teachers, (3) absolute class size maximums of 22 in Grades K-2 (with Grades 3-4 added in 1988-89), (4) prekindergarten programs for disadvantaged four-year-olds, and (5) others. While state aid increased by 19 percent in 1984-85 (largely from sales and gasoline tax increases), local property taxes also increased by 15 percent.

In 1985, the Texas Legislature made few changes to the reform act of 1984. By 1985-86, when the costliest reforms keyed in, it became apparent to most observers that the legislature had not bitten enough bullet in raising taxes for education and that local tax bases were going to bear the costs of reform. It was likewise apparent that any equity benefits gained in 1984 were going to be lost. However, in two special sessions in the summer of 1986 the legislature was forced to tackle state budget problems resulting from shrinking state revenues. A combination of state budget reductions and a large temporary sales tax increase resulted in public education monies being held intact but unincreased.

In 1987, in a special session required to adopt a biennial state budget, the Texas Legislature made the temporary sales and gasoline tax increases from 1986 permanent and expanded the state sales tax base and rate (to its current 6 percent). In June 1987, the trial court decision in *Edgewood I.S.D. v. Kirby* was handed down, followed by the appellate court reversal in December 1988.

In 1989, in the regular session, Texas lawmakers increased state aid formulas for the first time since 1984, but the additional $450 million in aid amounted to only about 4.5 percent as an increase spread over two years. No major state tax increase was required. Recent state estimates now reveal that there will be a biennial shortfall of $110 million due to underestimation of state growth in average daily attendance in 1989-90 and 1990-91. Reform costs continued to be shifted to the local level, where in 1989-90 local taxes increased by $2.50 for each $1.00 increase in state aid.[48] In October 1989, the Texas Supreme Court ruled the school finance system unconstitutional, as discussed above.

Table 3 below shows how Texas compared to other states in 1988-89 in terms of state percentage of the state/local funding of current operating costs.

THE TEXAS STATE REVENUE STRUCTURE

In 1988-89, Texas ranked 36th among the states in current operating expenditures per pupil; this ranking dropped to 38th when only state and local operating expenditures were considered and federal funds were excluded.[49] This ranking is relatively unchanged since 1920, when Texas ranked 37th among the states in state/local expenditures for public education.[50] One salient change is that in 1920 Texas

Table 3

PORTION OF SCHOOL DISTRICT STATE/LOCAL OPERATING EXPENDITURES COVERED BY STATE FUNDS, 1988-89

1.	HI	99.9%	26.	MT	53.0
2.	NM	86.5	27.	AZ	52.8
3.	AL	80.9	28.	OH	50.3
4.	KY	77.7	29.	IA	48.9
5.	WA	77.4	30.	PA	48.7
6.	CA	74.6	31.	CT	47.6
7.	DE	74.0	32.	MA	47.4
8.	AK	69.8		RI	47.4
9.	WV	69.4	**34.**	**TX**	**47.2**
10.	OK	68.9	35.	NY	47.1
11.	NC	68.2	36.	KS	45.6
12.	AR	67.1	37.	NJ	45.4
13.	ID	64.7	38.	VT	43.9
14.	GA	64.3	39.	MO	42.9
15.	MS	64.1	40.	WI	42.1
16.	IN	63.2	41.	MD	41.6
17.	LA	62.7	42.	NV	41.1
18.	UT	60.3	43.	CO	40.4
19.	SC	59.2	44.	IL	39.9
20.	MN	58.7	45.	MI	37.8
21.	FL	57.4	46.	VA	36.3
	ME	57.4	47.	SD	30.7
23.	ND	55.4	48.	OR	28.5
24.	TN	55.0	49.	NE	25.8
25.	WY	54.3	50.	NH	7.0
	Nat'l Avg.	**53.6**			
	Median	**53.6**			

SOURCE: National Education Association, Estimates of School Statistics, 1988-89.

ranked 43rd among the forty-eight states in local operating expenditures per pupil.[51] In 1988-89, Texas ranked 26th among the fifty states on the same measure.[52]

Table 4 below reveals other statistics about state and local support of public education and other governmental functions in Texas. In addition, it could be shown that of the ten most populous states, Texas ranks 10th in both state tax revenue per capita and total state/local taxes per capita. State costs, while impressive in absolute numbers, reflect low state tax effort compareder states. It is also noteworthy that while the state of Texas ranks 49th in the nation in state debt, Texas public schools have the highest debt burden of any state in the nation (approaching $7 billion, or more than $2,000 per student).

Table 4

Texas Rankings on Selected Statistics
1986-87

Comparison	Texas Rank
Personal Income Per Capita	33rd
State Tax Rev. as a Pct. of Income	48th
State Tax Rev. Per Capita	48th
Local Tax Revenue (All) Per Capita	14th
Local Property Taxes (All) Per Capita	20th
Total State/Local Taxes Per Capita	35th
Local School Expenditures	16th

SOURCE: U.S. Department of Commerce, Bureau of the Census, Government Finances in 1986-87 (Washington, D.C.: G.P.O., 1988).

It has already been mentioned that heavy reliance upon local tax sources for public education funding, particularly in the past six or seven years, is a central factor in the inequities of the Texas system of public school finance. At the core of this issue is the failure of the Texas Legislature to modernize the state's revenue structure in the 1980s after oil and natural gas production taxes began a rapid decline and sales tax receipts became stagnant. State tax sources, while diverse, are largely dependent upon the limited general sales and use tax, which provides about 53.6 percent of all state tax

revenues.[53] The 6 percent state sales tax rate is tied for the third highest in the nation, behind only Connecticut and Washington. When state and local sales tax rates are combined, the 8 percent rate in Texas is tied for fifth highest in the nation.[54]

Texas is a "high tax, low yield" state, not a "low tax" state. It remains as only one of four states that utilizes no form of income tax, and Texas is the only state among the ten most populous states that does not utilize the income tax.[55] Therefore, the state revenue system cannot support the magnitude of state expenditures needed to effect the degree of school finance equity envisioned in *Edgewood I.S.D. v. Kirby*. State tax reform is an integral partner to school finance reform, and the prospects for both personal and corporate income taxes are currently being discussed in a serious way for the first time in Texas history. Capitol observers believe that income taxes are inevitable if essential state services are to be maintained after 1991.

THE CURRENT TEXAS SCHOOL FINANCE SYSTEM

The structural elements of the Texas school finance model have been developed over a long period of time, often in isolation from each other element, and in response to a variety of motivations. The current system is complex, and the many proposed responses to the *Edgewood* decision are even more complex.

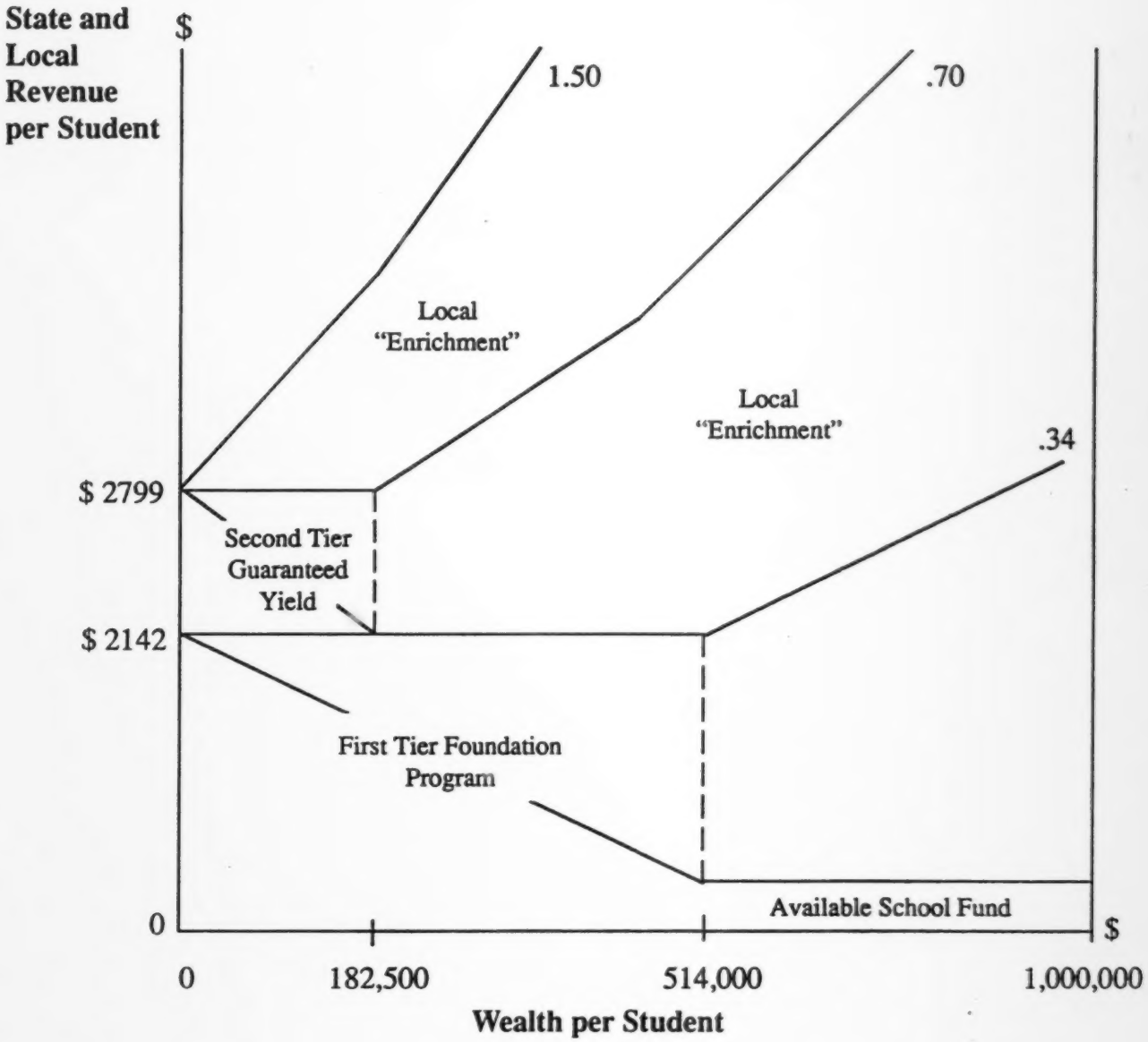
Basic Conceptual Model

The conceptual model utilized is a two-tier foundation program with the second tier based on power equalization principles. The model is based on combining the positive features of two conceptual models while minimizing the disadvantages of each. The model is illustrated in Figure 1 on the following page.

First Tier. The basic foundation program model is designed to provide an adequate minimum educational level in each school district in the state without burdening local payers of the property tax. The model provides for a minimum and uniform required level of tax effort (local fund assignment rate) that rises as state first-tier costs rise. The required local share tax rate is self-adjusting. The first tier also supports minimum expenditure levels in each district. Once the "foundation" of an adequate minimum educational level is established, then districts are given leeway to spend above the foundation program level in accordance with their local ability and willingness to tax themselves. In theory, a district could operate a minimally adequate program with its first-tier foundation allotment, given the required local tax effort. Therefore, the necessity to rely upon disparate local tax resources would be minimal.

Figure 1

First Tier Foundation Program and Second Tier Guaranteed Yield Program 1990-1991 Under Current Law



Source: Laurence Toenjes, Texas Center for Educational Research, February 1990

The foundation program model was formulated in the early 1920s at Columbia University by George D. Strayer, Robert M. Haig, and Paul R. Mort.[56] It is still the most widely used state aid model in the United States. Its basic design was calculated to: (1) equalize expenditures at a uniform level of required expenditures, (2) establish statewide minimum taxing and spending standards, (3) separate the decisioning authority of the state and local school districts, and (4) provide perpetual improvement of educational processes through the definition and redefinition of the "foundation level." In effect, the state sets its limits of participation and leaves the remainder to local choice. Integral to this rationale is the idea that local leeway fosters innovation, change, and adaptability. The minimum foundation level must be redefined each year to reflect the costs of minimally adequate educational opportunity, and the higher the foundation level, the better the equity of the model.[57]

The one-tier model generally lacks fiscal neutrality, particularly when substantial local tax revenues lie outside the state's equalized program of support. However, the one-tier model is generally superior to other conceptual models in providing expenditure equality.[58] Its other positive features are: (1) existence of a structure for the definition of adequacy; (2) assurance of a base level of revenues to support educational programs for children, even in low tax effort school districts; (3) familiarity of the Texas educational community; (4) reduced need to estimate local tax rate behavior in setting biennial appropriations; and (5) lessening the reactive role of the state treasury with respect to local tax rate selections, among others.[59]

The state can minimize the inequities of a one-tier program by: (1) placing a cap on local optional taxes, (2) raising the foundation level of spending, (3) increasing the required local share rate, and/or (4) providing a second tier program of equalized state aid based upon effort as opposed to minimal need.

Second Tier. The power equalized second tier of the program is calculated to improve the *ex ante* fiscal neutrality of the system by providing equal revenue yield for equal tax effort beyond the required minimum (local share) tax rate. Its basis is a guaranteed "fictional" (or "donated") tax base for each district in the state, thus guaranteeing to each district at or below the guaranteed tax base level equal access to revenues (above the first tier equalized program) at equal tax effort. The model maximizes local control and taxpayer equity, given a high level of guaranteed tax base, with state assistance dollars based on local choice and local taxable wealth. The model is sometimes known as "variable ratio matching" since the state aid ratio for each district varies with local property wealth.

In a power equalization model, disparities may occur in expenditures per pupil as effort varies, but equality of expenditures is not a goal of the second tier. The expenditure equality goal is addressed by the first tier. Rather, the goal of the second tier is 1:1 correspondence between tax effort and tax yield. In theory, a district would

exceed first-tier expenditure levels only to exceed the "minimally adequate program" and reach for "quality"; this additional effort is equalized by the power equalization model. Since the state matching level has a practical maximum, perfect fiscal neutrality will never be achieved; however, the potential exists to ameliorate nearly all school district wealth differences over time.

Formula Elements

The structural elements of the current (1989-90) Texas school finance system reflect the principles discussed above. The cost of the Foundation School Program (FSP) in Texas is shared by the state and the local districts. First, the amount of FSP aid to which a district is entitled is computed according to the state formulas. Second, from this figure is subtracted the district's local fund assignment (LFA), or local share of the FSP, which is the district's proportionate share of the statewide local share of the FSP. This statewide local share currently is 33.3 percent of statewide FSP costs. The result is the amount of regular program aid the district is due to receive from the state. To this aid will be added a prekindergarten entitlement (percentage equalized) and guaranteed yield aid (based on a separate formula). A sample calculation based on the 1989-90 statutory formulas is illustrated below in Table 5. Local expenditures from property taxes above the required local share are generally termed "local enrichment" and are subject only to the statutory tax rate limits.

Table 5

Calculation of FSP Aid for a Sample District

1. CALCULATION OF REGULAR BLOCK GRANT

A. Basic Allotment per ADA = $1,477

B. Price Differential Index (PDI) Adjustment =

$$ABA = \{[(BA \times 0.63 \times PDI) + (BA \times 0.37)] \times R\} + \{ABA89 \times [1 + (BA-1426)/1350] \times (1-R)\}$$

$$ABA = \{[(1,477 \times 0.63 \times 1.14) + (1,477 \times 0.37)] \times .2\} + \{1,564 \times [1 + (1477-1426)/1350] \times (1 - .2)\}$$

$$ABA = [(930.51 \times 1.14) + (546.49) \times .2] + (1564 \times 1.037777 \times .8)$$

ABA = (1,607.27 x .2) + (1623.08 x .8)

ABA = 1,619.918 = 1,620

Where: ABA 89 = ABA for 1988-89

C. Small District Adjustment = Not Applicable

A small district of less than 300 square miles and less than 1,600 ADA has its ABA adjusted by .00025 x (1,600 - ADA) x ABA; a district of more than 300 square miles and less than 1,600 ADA has its ABA adjusted by .0004 x (1,600 - ADA) x ABA. The adjusted ABA is used in all computations below where ABA appears in the formulas. A Minimum of 130 ADA is accorded to K-12 districts with less than 130 ADA, at least 90 ADA, and located more than 30 miles from the nearest high school.

D. Regular Block Grant =

ABA x Regular Program ADA =
1,620 x 2,226.34 = 3,606,671

2. CALCULATION OF ADDITIONAL ENTITLEMENTS

A. Career Ladder Allotment =

Total ADA x $90 =
2,367.96 x $90 = 213,116

B. Special Education Allotment =

(1) Total Wtd. FTEs x ABA =
270.056 x 1,620 = 437,491

[Wtd. FTEs determined by 14 Instructional Arrangements with varying assigned weighting factors. Calculation not shown.]

(2) Total Wtd. FTEs in Extended Services x ABA x 0.75 =
24 x 1.620 x .75 = 29,160

C. Vocational Education Allotment =

Voc. Ed. FTEs x ABA x 1.45 =
60.43 X 1,620 X 1.45 = 141,950

D. Gifted and Talented Allotment =

Students x ABA x .047 =
92 x 1,620 x .047 = 7,005

E. Compensatory Education Allotment =

NSLP Best 6 Months x ABA x 0.2 =
893 x 1,620 x 0.2 = 289,332

F. Bilingual/ESL Allotment =

Bilingual/ESL ADA x ABA x 0.1 =
173.64 x 1,620 x 0.1 = 28,130

G. Transportation Allotment =

Regular	$149,394	
Special Education	40,306	
Vocational Education	3,401	193,101

3. TOTAL COSTS OF FSP

Sum of 1.D + 2.A + 2.B + 2.C + 2.D + 2.E + 2.F + 2.G = 4,945,956

4. CALCULATION OF LOCAL SHARE

LFA = TR X DPV
LFA = .0033418 X $435,479,175
LFA = 1,455,284

Where: LFA = District's share of Line 3; TR = Local Share Tax Rate (State FSP x .333/State Taxable Value); DPV = District Property Value as Determined by State Property Tax Board

5. STATE'S SHARE (3. - 4.) 3,490,672

6. CALCULATION OF PER CAPITA ENTITLEMENT

1988-89 Total ADA x Per Capita =
2,367.96 x $303 = 717,492

7. AMOUNT FROM FOUNDATION SCHOOL FUND

5. - 6. 2,773,180

8. CALCULATION OF GUARANTEED YIELD AMOUNT

GYA = (GL x WADA x DTR x 100) - LR
GYA = ($18.25 x 2,984.97 x .36 x 100) - 1,567,725
GYA = 1,961,125 - 1,567,725 = 393,400

Where: GYA = Guaranteed Yield Amount; GL = Guaranteed Level of State and Local Funds per Weighted Student; WADA = Weighted ADA, provided in law; DTR = District Tax Rate above the Local Share Rate, not to exceed .36; LR = District Local Revenue from DRT (Total) x DPV [Calculation of WADA, DTR, and LR not shown]

9. OTHER ENTITLEMENTS

A. Prekindergarten Program =

Pre-K ADA x ABA x State Pct. FSP x .75 =
58.325 x 1,620 x .7058 x .75 = 50,016

Where: State Pct. FSP = Line 5/Line 3

10.	TOTAL FOUNDATION ENTITLEMENTS	
	7. + 8. + 9.	3,216,596
11.	TOTAL STATE AID	
	6. + 10. =	3,934,088

CURRENT REFORM PROPOSALS

At this writing, the Texas Legislature remains in special session addressing a response to the *Edgewood I.S.D. v. Kirby* decision prior to the May 1, 1990, deadline set out by the Texas Supreme Court. The preponderance of actual bills filed is in the Senate, and several reform proposals are discussed below. Others will no doubt emerge, particularly from the House of Representatives, where all revenue bills must originate.

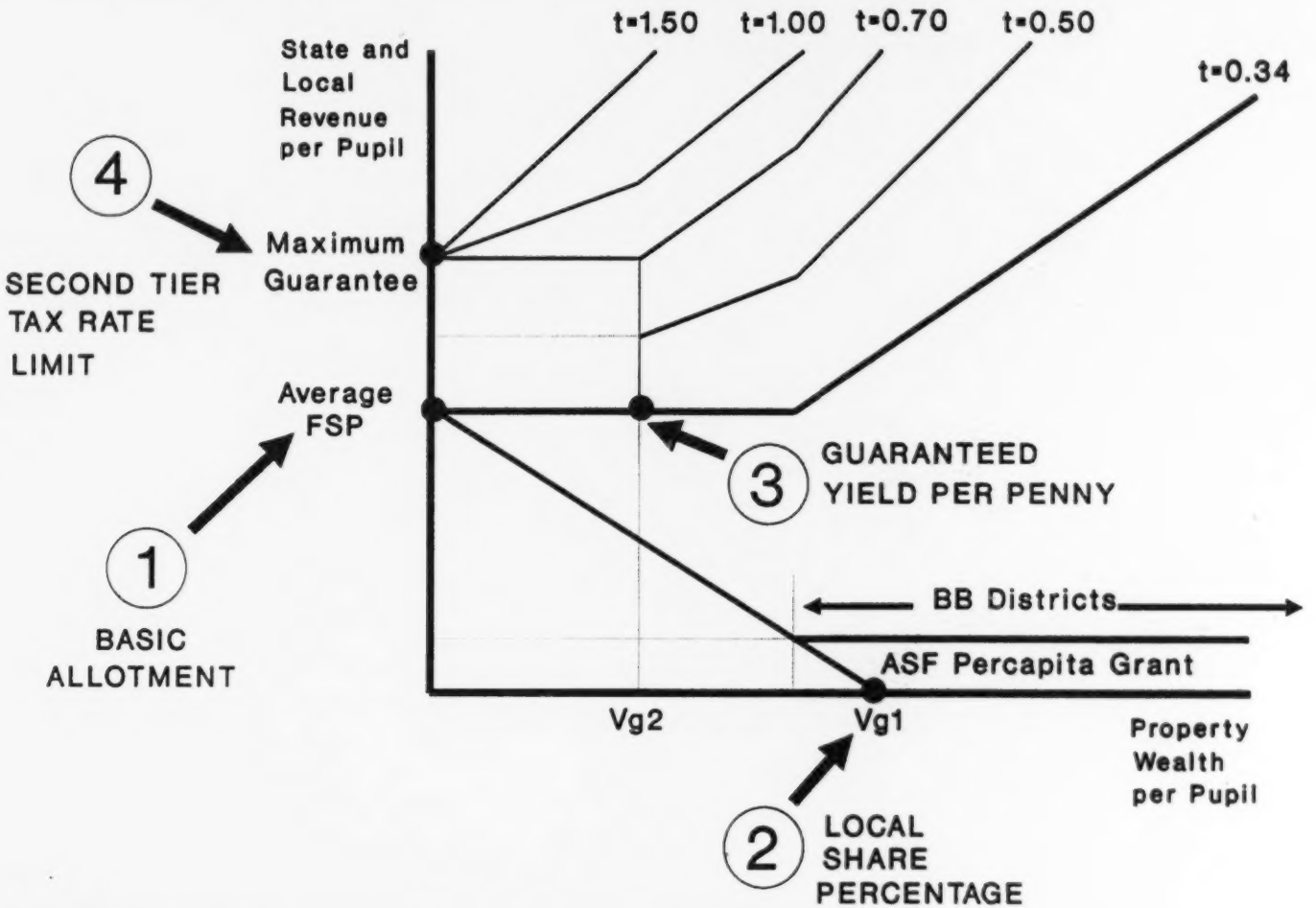
All the major proposals are similar in that they address, in various degrees and ways, the manipulable major equity-producing elements of the Texas school finance system. These elements, or "policy handles," are illustrated in Figure 2 on the following page. They are:

- Basic Allotment. Current law provision for 1990-91 is $1,500.
- Local Share Rate. Current law provision for 1990-91 is 33.3 percent of state costs for the first-tier FSP; that is, a local tax rate of approximately 35¢ per $100 applied to SPTB assigned values for the district (also called the Local Fund Assignment Rate).
- Guaranteed Yield Level. Current law provision in 1990-91 is $18.25 per weighted pupil per penny of tax effort above the Local Share Rate (about 35¢ per $100).
- Guaranteed Yield Rate. Current law provisions in 1990-91 is 36¢ per $100 above the Local Share Rate (35¢ per $100); that is, a total tax rate of about 71¢ per $100.

All reform proposals put forward to date include three-year or five-year phase-in provisions to spread state costs and to show long-term commitment to solution to school finance inequities. Only one major plan (see below) involves the restructuring

Figure 2

PRIMARY POLICY HANDLES ON SCHOOL FORMULAS



Note: Maximum guarantee (4) also affected by GYPP (3)

SOURCE: Laurence Toenjes, Ph.D., Texas Center for Educational Research, Austin

of local tax bases. No plan calls for consolidation of school districts. The major proposals to date are:

Equity Center Plan

The Equity Center is a Texas association of poor school districts that played a major role in providing assistance to plaintiffs and plaintiff-intervenors in the *Edgewood* suit. Its preferred plan has been introduced as Senate Bill 20 (by Santiesteban) in the spacial session. Key elements of the plan are: (1) a one-tiered guaranteed yield rising to $4,900 per unweighted ADA for $1.12 of tax effort after five years, (2) distribution of funds on a weighted pupil basis incorporating district and pupil weights, (3) minimum tax effort provisions, (4) guaranteed yield level linked to the district at the 95th percentile of property value per student, (5) a minimum participation distribution for districts not qualifying for guaranteed yield funds, (6) equalized aid for facilities and debt service, and (7) various adjustments to internal formula elements.

Governor's Task Force on Public Education

The Governor's Task Force on Public Education is a select committee appointed by the Governor, Lieutenant Governor, and Speaker of the House. The task force reported a five-level recommendation at increasing state cost thresholds. Taken as a five-year plan, the emphasis is on low first-year costs to postpone a state tax increase until 1991. Level Three of the recommendation has been introduced as a three-year plan in Senate Bill 31 (by Parker and Caperton) in the special session. Key elements of the plan are: (1) a two-tiered program based on increases to all four "policy handles" seen in Figure 2, (2) a guaranteed yield rising to $4,200 per unweighted ADA for $1.09 of tax effort after three years, (3) distribution of second-tier yield on an unweighted pupil basis because of the substantial Basic Allotment increases, (4) minimum tax effort provisions, (5) a fiscal neutrality goal of $r^2 = .000$ for 95 percent of the pupils by year three, (6) special assistance to high-need districts for construction costs, (7) enhanced technology and research funding, and (8) various adjustments to internal formula elements.

"Equality Plan"

The "Equality Plan" is a plan formulated by the plaintiff districts in the *Edgewood* case with assistance from their attorneys (Mexican American Legal Defense and Education Fund) and technical advisors (Intercultural Development Research Association). The plan has been introduced in the special session in Senate Bill 9 (by Uribe) and House Bill 34 (by Luna). Key elements of the plan are: (1) consolidation

of local tax bases at the county level, (2) a high required local tax rate (80¢ per $100), (3) a "cap" on enrichment tax rates at 20¢ per $100, (4) guaranteed yield aid on the enrichment tax rate, (5) distribution of funds on a weighted pupil basis, (6) a guaranteed yield of $4,800 per unweighted ADA for $1.00 of tax effort after five years, (7) equalized facilities funding of $400 per ADA in 1992-92 and thereafter, and (8) various adjustments to internal formula elements.

State Comptroller's Plan

Long-time State Comptroller Bob Bullock, a current candidate for Lieutenant Governor, has recommended a preferred plan introduced in the special session as Senate Bill 1 (by Haley and Glasgow). Key elements of the plan are: (1) a one-tiered guaranteed yield program rising to $4,600 per unweighted ADA for $1.09 of tax effort after five years, and (2) distribution of aid on a weighted pupil basis incorporating district and pupil weights.

State Board of Education Plan

The State Board of Education has proposed a plan that has been introduced in the special session as Senate Bill 33 (by Green). Key elements of the plan are: (1) a two-tiered system of aid based on an increase only to the guaranteed yield second tier in the first year, (2) subsequent increases in the other three "policy handles" in subsequent years as first-tier and second-tier tax rates react in a fluid manner, (3) a guaranteed yield of $4,700 per unweighted ADA for $1.07 of tax effort after five years, (4) summer school programs for at-risk students, (5) a technology allotment, (6) debt service assistance on new debt, and (7) various adjustments to internal formula elements.

House Education Committee

At this writing, plans being formulated by the House Education and Appropriation Committees had not been filed. A prevailing assumption is that bills, when laid out, will follow a variation of the template established by the Governor's Task Force "options."

SUMMARY

Texas public school finance is undergoing reform in 1990 in response to the Texas Supreme Court decision in *Edgewood I.S.D. v. Kirby*, a case in which the school finance system was held to violate the "efficient system" clause of the Texas Constitution. The only clear constitutional standard established by the Court is that districts must have "substantially equal" access to revenues at similar tax rates; local supplementation is not precluded if an "efficient system" is established. The proportion of state aid in the finance system has been in decline since 1984 due to state revenue constraints, and costly reform mandates have been funded largely from local tax sources, thus exacerbating the equity problems. The state revenue system which relies heavily on the general sales tax, is viewed as a major impediment to increasing state participation because of a stagnant Texas economy. Major proposals being put forth in a special legislative session generally involve: (1) improvement of the fiscal neutrality of the system through improved yield-for-effort plans, (2) equity targets involving at least 95 percent of the students under the equalized program, and (3) phase-in plans that spread state costs over a three-to-five-year horizon and push tax reform discussion forward to 1991 or 1993.

NOTES

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3. Harold Sunderman and Reg Hinely, "Toward Equality of Educational Opportunity: A Case Study and Projection," *Journal of Education Finance* 4 (1979): 436-450; Education Commission of the States, *A Summary of an Analysis of the Impact of Change in the Funding of Elementary/Secondary Education in Texas, 1974-75 to 1977-78* (Denver: Education Commission of the States, 1979); Deborah A. Verstegen, "Equity in State Education Finance: A Response to *Rodriguez*," *Journal of Education Finance* 12 (1987): 315-330.

4. The other states are California, Michigan, New Jersey, Connecticut, West Virginia, Wyoming, Arkansas, Washington, Montana, and Kentucky. In Michigan and Connecticut the reformed systems subsequently have been found constitutional.

5. Deborah A. Verstegen, Richard Hooker, and Nolan Estes, "A Comprehensive Shift in Educational Policymaking: Texas Education Reform Legislation," in Van D. Mueller and Mary P. McKeown, eds., *The Fiscal, Legal, and Political Aspects of State Reform of Elementary and Secondary Education* (Cambridge, MA: Ballinger, 1987), pp. 278-308.

6. *Edgewood I.S.D., et al. v. W. N. Kirby, et al.*, Cause No. 362,516 (250th Dist. Ct., Travis County, Texas, 1987); Final Judgment, June 1, 1989.

7. Billy D. Walker and John David Thompson, "Special Report: *Edgewood I.S.D. v. Kirby*," *Journal of Education Finance* 14 (1989): 429-430.

8. *Kirby v. Edgewood I.S.D.*, *per curiam* order, April 20, 1988.

9. *Edgewood I.S.D. v. Kirby*, Additional Conclusions of Law, June 6, 1988.

10. *Kirby v. Edgewood I.S.D.*, 761 S.W. 2d 859 (Tex. App.--Austin 1988, reversed).

11. Walker and Thompson, "Special Report," pp. 432-434.

12. *Kirby v. Edgewood I.S.D., supra*, at 859.

13. *San Antonio I.S.D. v. Rodriguez*, 411 U.S. 58 (1973).

14. *Edgewood Independent School District, et al. v. Kirby, et al.*, Cause No. C-8353 (Texas Supreme Court, October, 1989), at 11.

15. *Ibid.*, at 12.

16. *Ibid.*

17. *Ibid.*

18. *Ibid.*, at 2.

19. *Ibid.*, at 3.

20. *Ibid.*

21. *Ibid.*

22. *Ibid.*, at 13.

23. *Ibid.*, at 12.

24. *Ibid.*, at 13.

25. *Ibid.*, at 4.

26. *Ibid.*

27. *Ibid.*, at 13.

28. *Ibid.*, at 4, 9.

29. *Ibid.*, at 12.

30. *Ibid.*, at 3.

31. *Ibid.*, at 4.

32. *Ibid.*, at 12.

33. *Ibid.*, at 13.

34. *Ibid.*

35. *Ibid.*, at 11.

36. *Ibid.*, at 5-10.

37. *Ibid.*, *passim*.

38. *Ibid.*, at 7, 8.

39. *Ibid.*, at 14.

40. *Ibid.*, at 12.

41. *Ibid.*

42. *Ibid.*, at 13.

43. *Ibid.*, at 15.

44. Billy D. Walker, "The Equivalence of Basic School Finance Equalization Models" (Austin: Texas Center for Educational Research, 1988).

45. *Edgewood I.S.D. v. Kirby*, Tex. Sup. Ct., at 2, 3.

46. Texas Education Agency, *1987-88 Accountable Costs Study* (Austin: T.E.A., 1988), p. 3.

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58. *Ibid.*

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END

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